IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

S.B.CIVIL WRIT PETITION NO.5367/1998.

Ajay Kumar Jain. **VERSUS** The Director, Department of Local Bodies & Anr.

08.09.2006.

HON'BLE MR.JUSTICE DALIP SINGH

Mrs.Naina Saraf, for the petitioner.
Mr.B.K.Sharma, Deputy Government Advocate.

*****

This writ petition has been filed on the ground that one Vimal Kumar who was elected as Parshad (Ward Member) of Municipal Board, Kumher had incurred disqualification for being elected and continuing as member of the Municipal Board on account of the fact that he had more than two children which is a disqualification prescribed under the Rajasthan Municipalities Act, 1959.

It is submitted that an inquiry was held by the District Collector and the aforesaid allegations were allegedly found to be correct. It is submitted that though action has been initiated against one of the members namely Dharmendra Kumar, Ward Member of Ward No.8 but no action was initiated by the Government against Vimal Kumar, Ward Member of Ward No.13. It was, therefore, prayed by means of the present writ petition that a direction may be issued to the respondents to the effect that the said Ward Member Shri Vimal Kumar Jain be suspended with immediate effect and the matter may be forwarded to the Joint Legal Remembrance for inquiry against the Ward Member.

During the pendency of this writ petition, an application for impleadment was filed on behalf of Vimal Kumar on 06.04.1999. In the aforesaid application it was stated at para No.4 that the Additional Director (Vigilance), Local Bodies, Government of Rajasthan had made an inquiry and he found that the allegations made against him were not correct. The aforesaid application for being impleaded as party, however, came to be dismissed by this court on 07.05.1999 by the following order :-

> "07.05.1999.
> None present.
> None appears to press this application for impleadment. The same is dismissed as not pressed."

In the meanwhile, the elections to the Municipal Boards in Rajasthan on the expiry of their terms were again held in the year 2000 and the term of the Board of which Vimal Kumar was member also came to amend and thereafter on the expiry of the term of the Board which were constituted in the year 2000 also came to an end and fresh elections to the Municipal Bodies were held in Rajasthan in the year 2005.

In view of the above, the prayer of the petitioner that the elected member Vimal Kumar Jain should be suspended has become infructuous. So far as the question relating to holding of inquiry is concerned, the same is left open for the Government if the enquiry has not been concluded so far as the applicant Vimal Kumar had submitted that the enquiry has been concluded.

The writ petition accordingly stands disposed of.

(DALIP SINGH),J.

Solanki DS, Jr.P.A.